



City of San Antonio, Texas

Ethics Advisory Opinion No. 2017-04

February 9, 2017

Issued By: City Attorney's Office

I. Issue

Must a City employee recuse from evaluation panels if the employee has developed over the years a working relationship with a respondent who is a current City vendor?

II. Inquiry

A City employee has inquired whether or not she must recuse from an evaluation panel for a discretionary contract if the employee, during the course of performing their duties to the City, has developed a working relationship with a respondent/current City vendor? The employee and the vendor do not socialize, but they do discuss administration of contracts and have a friendly rapport.

III. The Ethics Code

Section 2-43 of the Ethics Code deals with conflicts of interests. Specifically, employees and City officials are not permitted to take any official action that he or she knows is likely to affect the economic interests of themselves, their close relatives, business entities in which the official or employee has a financial interest and persons or entities with which the employee or official has recently been engaged in employment discussions. While the Code does not address conflicts relating to working relationships with vendors, employees are cautioned to be mindful of the appearance of impropriety in conducting business on behalf of the City.

Section 2-44 of the City's Ethics Code sets forth the prohibitions against unfair advancement of private interests. Specifically, "a City official or employee may not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons."

Section 2-44 has special rules in addition to the general rule. One prohibits City employees or officials from entering into an agreement or understanding with any other person that official action by the official or employee will be rewarded or reciprocated by that person, directly or indirectly.

In this instance, the employee clearly recognized that while there is not a true conflict of interest, the appearance of or an allegation of bias could be made, by disclosing the working relationship with the vendor. The employee has assured her supervisor that she can evaluate the proposals based on the merits and not be influenced by the friendship with the vendor. Written disclosure of the nature of the relationship, approval by the supervisor to remain on the panel, and a fair evaluation based on the content of the proposal will satisfy the requirements of the Ethics Code.

IV. Conclusion

City employees who develop working relationships with City vendors during the regular course of their duties for the City do not have to recuse from evaluation panels when the vendors are also respondents to a City solicitation, if the employee can ensure their review and evaluation are based on the merits of the proposal.